

ILLINOIS COMMERCE COMMISSION

ORDER

I. PROCEDURAL HISTORY

On January 7, 2005, Commission Staff ("Staff") submitted an Answer to UE's Informational Statement. In the Answer, Staff recommends that the Commission enter an Order authorizing the transactions described in the Informational Statement and identifying the applicable provisions of the Act and Illinois Administrative Code. No hearings were held in this matter. No petitions to intervene were received. There are no contested issues.

II. STATUTORY AUTHORITY FOR PROPOSED FINANCING

UE asserts that its filing is governed by Section 6-102(d) of the Act, and that Section 6-102(b) is not applicable to the proposed financing. In Subsection 6-102(b) of Section 6-102 of the Act, the first sentence provides as follows:

(b) The provisions of this subsection (b) shall apply only to (1) any issuances of stock in a cumulative amount, exclusive of any issuances referred to in item (3), that are 10% or more in a calendar year or 20% or more in a 24-month period of the total common stockholders' equity or of the total amount of preferred stock outstanding, as the case may be, of the public utility, and (2) to any issuances of bonds, notes or other evidences of indebtedness in a cumulative principal amount, exclusive of any issuances referred to in item (3), that are 10% or more in a calendar year or 20% or more in a 24-month period of the aggregate principal amount of bonds, notes and other evidences of indebtedness of the public utility outstanding, all as of the date of the issuance, but shall not apply to (3) any issuances of stock or of bonds, notes or other evidences of indebtedness 90% or more of the proceeds of which are to be used by the public utility for purposes of refunding, redeeming or refinancing outstanding issues of stock, bonds, notes or other evidences of indebtedness

Subsection 6-102(d) of Section 6-102 of the Act provides in part as follows:

(d) Any issuance of stock or of bonds, notes or other evidences of indebtedness, other than issuances of notes pursuant to subsection (c) of this Section, which is not subject to subsection (b) of this Section, shall be regulated by the Commission as follows: the public utility shall file with the Commission, at least 15 days before the date of the issuance, an informational statement setting forth the type and amount of the issue and the purpose or purposes to which the issue or the proceeds thereof are to be applied. Prior to the date of the issuance specified in the public utility's filing, the Commission, if it finds that the issuance is not subject to subsection (b) of this Section, shall issue a written order in conformance with subsection (a) of this Section authorizing the issuance

III. UE's INFORMATIONAL STATEMENT

According to the Informational Statement, UE intends to issue and sell up to \$85,000,000 aggregate principal amount of Notes in one series with the pricing and issuance of securities scheduled to occur on or after January 20, 2005. The terms of the Notes, including but not limited to the maturity, price, rate, or method of calculation of interest and dates for payment thereof, and any redemption, prepayment or sinking fund provisions, will be determined at the time of the offering. UE is currently contemplating issuing the Notes for up to 35-year terms, depending on market

conditions at the time of the offering. UE anticipates that interest rate(s) will not exceed 6.75%; however, the actual interest rate(s) will be determined at the time of the offering or periodically during the term of the Notes. If it were to issue securities at this time with a 30-year maturity, UE reports that it would expect an interest rate of about 5.8%.

The Notes will be an issue of a new series of debt securities issued under, and secured by, an existing indenture ("Senior Note Indenture"), between The Bank of New York, as trustee, and UE dated August 15, 2002, the form of which was attached to the Informational Statement submitted by UE in Docket No. 02-0484 and the subject of the Commission's Orders dated August 6, 2002, October 1, 2002, March 4, 2003, March 26, 2003, July 22, 2003, September 22, 2003, April 27, 2004, and September 14, 2004.

Prior to the release date as described below, all of the Notes outstanding under the Senior Note Indenture will be secured by one or more series of UE's senior note mortgage bonds issued under its first mortgage indenture, the terms of which will mirror the Notes. The senior note mortgage bonds are secured by a lien on substantially all of the property owned by UE. The release date will be the date that all of UE's first mortgage bonds issued and outstanding under its first mortgage indenture, other than senior note mortgage bonds, have been redeemed or retired. On the release date, the Notes will cease to be secured by the senior note mortgage bonds, will become UE's unsecured general obligations and will rank equally with all of UE's unsecured and unsubordinated debt.

UE expects to sell the Notes in an underwritten public offering pursuant to a prospectus supplement and underlying base prospectus to be filed with the Securities and Exchange Commission ("SEC"). UE's underlying shelf registration statement on Form S-3 for the registration of the Notes was initially filed with the SEC on August 15, 2003 and became effective September 5, 2003. An underwriting agreement is to be executed between UE and one or more financial institutions, which will serve as underwriters for this financing.

With regard to the purpose of the financing, UE states that it will use the net proceeds from the sale of the Notes, after deduction of fees paid to underwriters in connection with this offering, to repay short-term debt temporarily required for the retirement and refinancing of its \$85,000,000 7.375% first mortgage bonds. These bonds matured on December 15, 2004 and were previously approved by the Commission in Docket No. 92-0360. Refunding the matured 7.375% series of first mortgage bonds will take advantage of the current favorable interest rate environment.

As noted earlier, UE asserts that Section 6-102(b) does not apply to its proposed financing. UE observes that subsection (b) does not apply to any issuance of stocks or of bonds, notes or other evidences of indebtedness for which 90% or more of the proceeds are to be used for purposes of refunding, redeeming, or refinancing outstanding issues of stock, bonds, notes or other evidences of indebtedness and preferred stock. Because more than 90% of the proceeds from the issuance of the Notes will be used for purposes of refunding outstanding evidences of indebtedness,

UE concludes that the proposed issuance and sale of the Notes are not subject to subsection (b) of Section 6-102.

Concerning the fee required under Section 6-108 of the Act, UE commits to pay the appropriate fee reflecting the percentage of its utility property located in Illinois no later than 30 days after service of the Commission order authorizing the Notes. For purposes of the fee calculation, UE states that as of December 31, 2003, its property situated in Illinois constituted 6.12% of its total property wherever situated.

IV. STAFF'S ANSWER

Staff reviewed UE's Informational Statement as well as Article VI of the Act. Staff asserts that UE's proposal is subject to Section 6-101, which requires the Commission to provide proper identification numbers on the proposed Notes when issued. Staff further asserts that the proposal is subject to Section 6-102(a), which requires an order authorizing the proposed issuance of the Notes. Staff indicates that the order must also state the amount of the proceeds and purposes to which they are to be applied, and that such applications are reasonably required. Additionally, Staff notes that Rule 415 under the Securities Act of 1933 requires that registered shelf securities be issued within 2 years from the registration date. Accordingly, Staff recommends that the authority to issue the Notes have an expiration date no later than January 20, 2007. With regard to subsection (b) of Section 6-102, Staff states that UE's proposal is not subject to Section 6-102(b) since 100% of the proceeds will be used for the purpose of refunding outstanding issues of stock, bonds, notes, or other evidences of indebtedness. Also inapplicable to the proposal in Staff's opinion is Section 6-102(c). Staff concludes that UE's proposal is subject to Section 6-102(d), which requires the Informational Statement and a Commission order in conformance with Section 6-102(a).

Because the proceeds of the proposed issuance will be used for the purpose of refunding outstanding short-term debt that was issued without the consent of the Commission, Staff states that a fee is required under Section 6-108. Staff calculates the appropriate fee under Section 6-108 to be \$12,485. Staff calculated the fee as follows:

$$\begin{aligned} \$85,000,000 * 6.12\% &= \$5,200,000 \text{ (debt portion for property in Illinois)} \\ \$5,200,000 * (\$.24/\$100) &= \$12,485 \text{ (fee to Commission)} \end{aligned}$$

Staff further notes that the proposal is subject to 83 Illinois Administrative Code Part 240, which requires UE to file reports relative to the issuance and sale of the Notes and application of the proceeds, unless the Commission order provides otherwise (See Section 240.30).

In summary, Staff recommends that the Commission issue an order, pursuant to Section 6-102(d) of the Act, authorizing the transactions described in the Informational Statement and identifying the applicable provisions of the Act and Administrative Code. Staff further recommends that, consistent with Rule 415 of the Securities Act of 1933, the authority to issue securities subject to the Commission order expire on January 20,

2007. Staff also recommends that the Commission find that a fee for \$12,485 is required pursuant to Section 6-108 of the Act and order UE to file reports relating to the issuance of the securities approved in this order pursuant to 83 Ill. Adm. Code 240

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) UE is a corporation engaged in the sale and distribution of electricity and gas in portions of the State of Illinois and, as such, is a public utility within the meaning of the Act;
- (2) the Commission has jurisdiction over UE and the subject matter of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) subject to the conditions set forth herein, UE's proposed issuance of up to \$85,000,000 principal amount of Notes should be approved in accordance with Section 6-102(d) of the Act as set forth below;
- (5) the net proceeds from the sale of the Notes, after deduction of fees paid to underwriters in connection with this offering, shall only be used to repay short-term debt temporarily required for the retirement and refinancing of its \$85,000,000 7.375% first mortgage bonds which matured on December 15, 2004;
- (6) the funds to be obtained from the issuance of the Notes are reasonably required for the purposes described herein;
- (7) in accordance with Section 6-101, UE should, before issuance of the Notes described herein, cause the following identification number to be placed on the face of such securities: Ill. C.C. No. 6342;
- (8) UE should comply with the reporting requirements of 83 Ill. Adm. Code 240;
- (9) UE should pay a fee in the amount of \$12,485 in accordance with Section 6-108 of the Act, this fee should be paid no later than 30 days after service of the Commission Order; and
- (10) pursuant to Rule 415 of the Securities Act of 1933, the authority to issue the Notes granted herein should expire on January 20, 2007.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Union Electric Company's proposed issuance of up to \$85,000,000 aggregate principal amount of Senior Secured Notes in one series in connection with the proposed retirement and refinancing of existing bonds described herein is not subject to the provisions of Section 6-102(b) of the Act, and is hereby approved in accordance with Section 6-102(d) of the Act.

IT IS FURTHER ORDERED that Union Electric Company d/b/a AmerenUE shall comply with Findings (7) through (9) of this Order.

IT IS FURTHER ORDERED that the authority to issue the Senior Secured Notes granted herein shall expire on January 20, 2007.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 20th day of January, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman